

§ 70.41

§ 70.41 Misrepresentation, deceptive, or fraudulent act or practice.

Any willful misrepresentation or any deceptive or fraudulent act or practice found to be made or committed by any person in connection with:

(a) The making or filing of any application for any grading service, appeal or regrading service;

(b) The making of the product accessible for sampling or grading;

(c) The making, issuing, or using, or attempting to issue or use any grading certificate, symbol, stamp, label, seal, or identification, authorized pursuant to the regulations in this part;

(d) The use of the terms “United States” or “U.S.” in conjunction with the grade of the product;

(e) The use of any of the aforesaid terms or any official stamp, symbol, label, seal, or identification in the labeling or advertising of any product.

[41 FR 23681, June 11, 1976; 41 FR 24693, June 18, 1976. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 71 FR 42014, July 24, 2006]

§ 70.42 Use of facsimile forms.

Using or attempting to use a form which simulates in whole or in part any certificate, symbol, stamp, label, seal, or identification authorized to be issued or used under the regulations in this part.

§ 70.43 Willful violation of the regulations.

Any willful violation of the regulations in this part or the Act.

§ 70.44 Interfering with a grader or employee of Service.

Any interference with or obstruction or any attempted interference or obstruction of, or assault upon any grader, licensee, or employee of the Service in the performance of such employee's duties. The giving or offering, directly or indirectly, of any money, loan, gift, or anything of value to an employee of the Service, or the making or offering of any contribution to or in any way supplementing the salary, compensation, or expenses of an employee of the Service, or the offering or entering into a private contract or agreement with an employee of the Service for any

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services to be rendered while employed by the Service.

[41 FR 23681, June 11, 1976; 41 FR 24693, June 18, 1976. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 71 FR 42014, July 24, 2006]

§ 70.45 Misleading labeling.

The use of the terms “Government Graded” and “Federal-State Graded” or terms of similar import in the labeling or advertising of any product without stating in the labeling or advertisement the U.S. grade of the product as determined by an authorized grader.

§ 70.46 Miscellaneous.

The existence of any of the conditions set forth in § 70.35 constituting a basis for the rejection of an application for grading service.

IDENTIFYING AND MARKING PRODUCTS

§ 70.50 Approval of official identification and wording on labels.

Any label or packaging material which bears any official grade identification shall be used only in such a manner as the Administrator may prescribe, and such labeling or packaging materials, including the wording used on such materials, shall be approved in accordance with and conform with the provisions of this part 70 and the applicable provisions of §§ 381.115 through 381.141 of 9 CFR part 381. Poultry Products Inspection Regulations. Labeling requirements for ready-to-cook rabbits, except for the product name, shall be the same as for ready-to-cook poultry. For ready-to-cook rabbits the class name shall be shown on the label. The appropriate designation, “young,” “mature,” or “old,” may be used as a prefix to the word “rabbit” in lieu of the class name.

[41 FR 23681, June 11, 1976; 41 FR 24694, June 18, 1976. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

§ 70.51 Form of grademark and information required.

(a) *Form of official identification symbol and grademark.* (1) The shield set forth in Figure 1 of this section shall be the official identification symbol for

purposes of this part and when used, imitated, or simulated in any manner in connection with poultry or rabbits, shall be deemed prima facie to constitute a representation that the product has been officially graded for the purposes of § 70.2.

(2) Except as otherwise authorized, the grademark permitted to be used to officially identify USDA consumer-graded poultry and rabbit products shall be of the form and design indicated in Figures 2 through 4 of this section. The shield shall be of sufficient size so that the printing and other information contained therein is legible and in approximately the same proportion as shown in these figures.

(3) The "Prepared From" grademark in Figure 5 of this section may be used to identify specialized poultry products for which there are no official U.S. grade standards, provided that these products are approved by the Agency and are prepared from U.S. Consumer Grade A poultry carcasses, parts, or other products that comply with the requirements of AMS § 70.220. All poultry products shall be processed and labeled in accordance with 9 CFR part 381.

(b) *Information required on grademark.*

(1) Except as otherwise authorized by the Administrator, each grademark used shall include the letters "USDA" and the U.S. grade of the product it identifies, such as "A Grade," as shown in Figure 2 of this section. Such infor-

mation shall be printed with the shield and the wording within the shield in contrasting colors in a manner such that the design is legible and conspicuous on the material upon which it is printed.

(2) Except as otherwise authorized, the bands of the shield in Figure 4 of this section shall be displayed in three colors, with the color of the top, middle, and bottom bands being blue, white, and red, respectively.

(3) The "Prepared From" grademark in Figure 5 of this section may be any one of the designs shown in Figures 2 through 4 of this section. The text outside the shield shall be conspicuous, legible, and in approximately the same proportion and close proximity to the shield as shown in Figure 5 of this section.

(c) *Products that may be individually grademarked.* The grademarks set forth in Figures 2 through 4 of this section may be applied individually to ready-to-cook poultry, rabbits, and specified poultry food products for which consumer grades are provided in the U.S. Classes, Standards, and Grades for Poultry and Rabbits, AMS 70.200 and 70.300 *et seq.*, respectively, or to the containers in which such products are enclosed for the purpose of display and sale to household consumers, only when such products qualify for the particular grade indicated in accordance with the consumer grades.



Figure 1

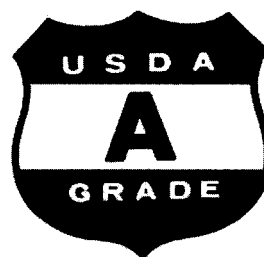


Figure 4



Figure 2

Prepared From



Poultry

Figure 5



Figure 3

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[63 FR 40628, July 30, 1998]

REPORTS

§ 70.52 Prerequisites to packaging ready-to-cook poultry or rabbits identified with consumer grademarks.

The official identification of any graded product as provided in §§ 70.50 and 70.51 shall be done only under the supervision of a grader. The grader shall have supervision over the use and handling of all material bearing any official identification.

§ 70.54 Retention authorities.

A grader may use retention tags or other devices and methods as approved by the Administrator for the identification and control of poultry or rabbit products which are not in compliance with the regulations or are held for further examination. Any such item shall not be released until in compliance with the regulations and retention identification shall not be removed by anyone other than a grader.

§ 70.55 Check grading officially identified product.

Officially identified poultry or rabbit products may be subject to final check grading prior to their shipment. Such product found not to be in compliance with the assigned official grade shall be placed under a retention tag until it is regraded to comply with the grade assigned or until the official identification is removed.

§ 70.56 Grading requirements of poultry and rabbits identified with official identification.

(a) Poultry and rabbit products to be identified with the grademarks illustrated in § 70.51 must be individually graded by a grader or by authorized personnel pursuant to § 70.20 and thereafter checkgraded by a grader.

(b) Poultry and rabbit products not graded in accordance with paragraph (a) of this section may be officially graded on a sample basis and the shipping containers may be identified with grademarks which contain the words "Sample Graded" and which are approved by the Administrator.

[71 FR 42014, July 24, 2006]

§ 70.60 Report of grading work.

Reports of grading work performed within official plants shall be forwarded to the Administrator by the grader in a manner as may be specified by the Administrator.

[71 FR 42014, July 24, 2006]

§ 70.61 Information to be furnished to graders.

The applicant for grading service shall furnish to the grader rendering such service such information as may be required for the purposes of this part.

[47 FR 46071, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982]

§ 70.62 Report of violations.

Each grader shall report, in the manner prescribed by the Administrator, all violations and noncompliances under the Act and the regulations in this part of which such grader has knowledge.

[71 FR 42014, July 24, 2006]

FEES AND CHARGES

§ 70.70 Payment of fees and charges.

(a) Fees and charges for any grading service shall be paid by the interested party making the application for such service in accordance with the applicable provisions of this section and §§ 70.71 through 70.78 inclusive. If so required by the grader, such fees and charges shall be paid in advance.

(b) Fees and charges for any grading service shall, unless otherwise required pursuant to paragraph (c) of this section, be paid by check, draft, or money order payable to the AMS and remitted promptly to the AMS.

(c) Fees and charges for any grading under a cooperative agreement with any State or person shall be paid in accordance with the terms of such cooperative agreement.

[41 FR 23681, June 11, 1976; 41 FR 24693, June 18, 1976. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 71 FR 42014, July 24, 2006]